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PRESS RELEASE

Update on State vs Oscar Luna 04-CR-23-2684

In September of last year our community experienced an unimaginable tragedy – an 11 year old girl was located at the Sanford emergency room due to a report of a sexual assault. After investigation by the Bemidji Police Department (BPD) and the Minnesota Bureau of Criminal Apprehension (BCA), several salacious details emerged from the investigation. Law Enforcement learned that the girl had been at a residence in Bemidji and that she reported being forced into a car and had a bag put over her head. She further reported being taken to a yellow house in Bemidji where she was tied up. She reported that she was naked while she was tied-up and that there were two other girls tied up next to her. She reported that there were four Mexican men in the house and that she was sexually assaulted by two of them, one named “Panda,” the other named “Noah.” The young girl was examined by a sexual assault nurse who informed law enforcement that she had abrasions consistent with a sexual assault. Based on this information, the BPD began an intensive investigation into the matter.

During the course of their investigation, law enforcement located a house in Bemidji that matched the description provided to them by the girl. When they performed a search of the house they located 12 men. One of the men was later identified as Oscar Luna, a United States citizen from Texas; the other 11 men were foreign nationals. The U.S. Boarder Patrol was eventually involved and all of the foreign

nationals were handed over to Federal authorities. Prior to that, the BPD made sure to secure DNA samples from all 12 of the men found in the house. Oscar Luna was determined to fit the physical description of “Panda” given by the young girl and was taken into custody by the BPD. The Beltrami County Attorney’s office charged Luna with one Count of Criminal Sexual Conduct in the First Degree based upon the information at the time.

None of the other men found at the scene were ever charged with a crime. Both the BPD and the BCA continued their investigation after the charges were filed against Luna. Based on the DNA collected from Luna and the other 11 men found at the scene none of their DNA was found on the young girl. The BCA did examine the clothing of the young girl and determined that there were four separate DNA profiles on the waistband of her underwear, one of which matched her own DNA, the rest were unidentified individuals which included unknown male DNA. The BCA ran the DNA profiles of all the men against the DNA found on her underwear and excluded all of them as a match. Law enforcement also processed the scene and the car that the girl had allegedly been forced into for DNA; the BCA was unable to locate the girl’s DNA at the scene or in the car.

Besides the continued forensic analysis, investigators for the BPD continued to analyze physical evidence and take statements from individuals familiar with the case. Unfortunately, the physical evidence and follow-up statements from witnesses tended to not corroborate the young girl’s statement. To be clear, there is little doubt that the young girl was sexually assaulted – the medical evidence from her SANE exam supports that she was sexually assaulted.

Luna’s DNA was not found on the girl. Luna was first identified as a suspect by law enforcement because he matched the description given by the girl; however, he was never specifically identified by any witnesses as the assailant.

In the American Justice system, prosecutors have a special duty to refrain from prosecuting a charge

that the prosecutor knows is not supported by probable cause. Initially, there was sufficient probable cause to proceed with charges against Luna, but as the investigation unfolded, much of that evidence became either uncorroborated or exculpatory. At this point there is no evidence, admissible in a court of law, to implicate Luna for the sexual assault of the young girl. Therefore, based upon the lack of evidence necessary to prove this case the Beltrami County Attorney's office will be dismissing the charges against Luna. Furthermore, because of the DNA evidence excluding the other men found at the scene, there are currently no suspects to file charges against at this time. The case will remain under investigation, and if any new evidence is discovered, the Beltrami County Attorney's office will examine it and proceed accordingly.

When processing the scene, law enforcement did encounter drugs. Luna has admitted that the drugs found at the scene were his, he also acknowledged the house that he was staying at was within a school zone and therefore he possessed the drugs inside of a school zone. Because of this Luna will be prosecuted for one count of Third Degree Possession of a Controlled Substance, a felony, which he intends to plead guilty to immediately. Luna also has two outstanding warrants in Hennepin County. Upon resolution of his drug charge here in Beltrami County, he will be released to his warrants.

On a personal note, I want to thank all of the hard working men and women who have participated in this investigation, from the nurses and law enforcement officers who investigated the case, as well as all of the members of my staff who have put in countless hours on this case. This case involves a little girl who experienced an unthinkable trauma, and for the prosecution to conclude with an outcome of no charges is itself another trauma – both for the victim and for all of the individuals who have put their heart and souls into this case. I ask that members of the press respect the privacy of the young girl and her family in this difficult time.

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